

Message Text

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ACTION OES-06

INFO OCT-01 EA-09 ISO-00 FEA-01 ACDA-10 CIAE-00 INR-07
IO-13 L-03 NSAE-00 NSC-05 EB-08 NRC-07 DODE-00 PM-04
SP-02 /076 W
-----150821Z 044669 /21

P R 150730Z FEB 77
FM AMEMBASSY TOKYO
TO ERDA GERMANTOWN PRIORITY
ERDA WASHDC PRIORITY
INFO SECSTATE WASHDC 5458

UNCLAS SECTION 1 OF 2 TOKYO 2112

ERDA FOR HELFRICH

E.O. 11652: N/A
TAGS: TECH, JA
SUBJECT: ERDA/PNC MOU ON JOINT PHYSICS LARGE CORE CRITICAL
EXPERIMENTAL PROGRAM

REF: A) FEB 4 LTR HELFRICH TO HENOC, B) FEB 9 TELECON GFH TO WWH

REF A DRAFT MOU REVIEWED SUBSEQUENT TO PREVIOUSLY RECEIVED AND
REVIEWED DRAFT. IN LIGHT OF REF B INDICATION THAT PNC URGENTLY
DESIRES CONCLUSION OF AGREEMENT BY FEB. 18 TO PERMIT USE JFY
1976 FUNDS, ERDA REP URGED RESTRAINT IN REQUESTING CHANGES.
IN PARTICULAR, JAPANESE AGREED TO ABANDON PRIOR OPPOSITION TO
TWO MAJOR ITEMS; 1. OBJECTION TO PHILOSOPHY OF WIDE DISTRIBUTION
(ARTICLE 2, SECTION 3) AND 2. OBJECTION TO DEFINITION OF QUOTE
INDUSTRIAL PROPERTY OF A PROPRIETARY NATURE UNQUOTE (ARTICLE 2,
SECTION 4 AND 5). CONSEQUENTLY, FOLLOWING CONSTITUTES REQUESTS
FOR CHANGES WHICH: 1. WOULD ASSIST UNDERSTANDING OF MOU, 2. PIN
DOWN PAYMENT ARRANGEMENTS, 3. RELATE PAYMENTS MADE AND INFORMATION
TRANSMITTED TO TERMINATION SETTLEMENTS IN CASE OF
PREMATURE CONCLUSION OF ARRANGEMENT AND 4. ARE EDITORIAL
NICETIES. FOLLOWING ARE SPECIFIC CHANGES REQUESTED AND
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REASONS IN SEQUENCE OF ABOVE FOUR PRIORITIES:

1. UNDERSTANDING

A. PNC REQUESTS DELETE QUOTE JAPAN UNQUOTE ON PAGE 1 LINES
6 AND 10 SINCE TITLE PNC DOES NOT INCLUDE JAPAN.

B. PNC REQUESTS PAGE 2 ARTICLE 1 SECTION B BE CHANGED TO READ QUOTE IN RETURN FOR FINANCING ARRANGEMENTS PURSUANT TO ARTICLE 6 OF THIS MEMORANDUM OF UNDERSTANDING PNC SHALL PARTICIPATE IN THE PLANNING, CONDUCT AND ANALYSIS OF THESE EXPERIMENTS AND SHALL HAVE ACCESS TO AND RECEIVE ALL DATA AND INFORMATION ASSOCIATED WITH THE PLANNING, CONDUCT AND ANALYSIS IN A TIMELY MANNER BUT IN NO EVENT LATER THAN CONTEMPORANEOUS WITH ITS PUBLICATION NOR RELEASE TO ANY OTHER COUNTRY. UNQUOTE.

C. SECOND SENTENCE, ARTICLE 8 SECTION 4, QUOTE COMPENSATION FOR DAMAGE CAUSED BY SUCH NUCLEAR INCIDENT SHALL BE IN ACCORDANCE WITH THE LAWS OF THE PARTIES UNQUOTE IS UNCLEAR. DOES THIS MEAN COMPENSATION WILL BE PAID BY U.S. IF ACCIDENT IN U.S.? SHOULD IT READ QUOTE LAW OF HOST COUNTRY UNQUOTE RATHER THAN QUOTE LAWS OF PARTIES UNQUOTE?

D. BECAUSE OF FACT THAT PNC IS NOT REPEAT NOT JAPANESE GOVERNMENT AGENCY MOU MUST RECEIVE GOJ APPROVAL. ACCORDINGLY PNC DESIRES ARTICLE 12 TO READ QUOTE THIS MEMORANDUM OF UNDERSTANDING SHALL ENTER INTO FORCE UPON SIGNING BY EACH PARTY AND APPROVAL BY THE GOVERNMENT OF JAPAN AND SHALL CONTINUE FOR A 3-YEAR PERIOD. SHOULD THE PROGRAM EXCEED 3 YEARS, THIS MEMORANDUM OF UNDERSTANDING SHALL REMAIN EFFECTIVE UNTIL THE COMPLETION OF THE PROGRAM. THE IMPLEMENTATION AND PROGRESS OF THE PROGRAM MAY BE SUBJECT TO ANNUAL REVIEW BY THE PARTIES. UNQUOTE.

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E. PNC WILLING TO HAVE MOU IN ENGLISH ONLY AND AGREE TO FINAL SENTENCE QUOTE DONE AT IN ENGLISH THIS DAY OF , 1977 UNQUOTE.

2. PAYMENT

A. SINCE PNC'S DOMAIN INCLUDES ONLY OMFBRs, PNC REQUESTS LAST SENTENCE ARTICLE 5, SECTION 1 A (1), PAGE 8 AND ARTICLE 5, SECTION 1 B PAGE 9 READ QUOTE FOR USE IN THE PRODUCTION OR UTILIZATION OF SPECIAL NUCLEAR MATERIAL OR ATOMIC ENERGY IN RELATION TO THE LMFBR DEVELOPMENT PROGRAM UNQUOTE. PNC MAINTAINS IT HAS NO CONTROL OVER TECHNOLOGY WHICH IS OUTSIDE THE LMNBR AREA, E.G. THAT APPLICABLE TO LWRS. FOR SAME REASON PNC REQUESTS FIRST SENTENCE ARTICLE 5 SECTION 1 C PAGE 9 READ QUOTE WITH REGARD TO OTHER SPECIFIC FORMS OF COOPERATION, INCLUDING LOANS OR EXCHANGES OF MATERIALS, INSTRUMENTS AND EQUIPMENT FOR THE PROGRAM, THE PARTIES SHALL PROVIDE FOR APPROPRIATE DISTRIBUTION OF RIGHTS TO INVENTIONS OR DISCOVERIES RELATING TO THE

LMFBR PROGRAM RESULTING FROM SUCH COOPERATION. UNQUOTE.

B. IN ARTICL 6 SECTION 2 PNC WISHES TO SPELL OUT PAYMENT PLAN AS FOLLOWS QUOTE THE CASH CONTRIBUTION UNDER PARAGRAPH 1 ABOVE, SHALL BE MADE IN U.S. DOLLARS IN THE FOLLOWING MANNER;

1) \$250,000 SHALL BE DUE AND PAYABLE UPON RECEIPT OF AN I POICE TO BE ISSUED UPON OR SHORTLY AFTER THE EFFECTIVE DATE OF THIS MOU.

2) \$250,000 SHALL BE DUE AND PAYABLE UPON RECEIPT OF AN INVOICE TO BE ISSUED UPON OR SHORTLY AFTER THE COMMENCEMENT OF A LARGE CORE CRITICAL BENCHMARK EXPERIMENT. UNQUOTE.

3 TERMINATION
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A. SINCE PAYMENTS ARE TO BE MADE IN TWO INSTALLMENTS ONLY, SUGGEST INSERTION OF SOME LANGUAGE SUCH AS FOLLOWING IN PLACE OF LAST SENTENCE ARTICLE 12 SECTION 2 QUOTE IN THE EVENT OF SUCH TERMINATION THE SETTLEMENT OF PAYMENTS FROM PNC TO ERDA AND THE FURNISHING OF INFORMATION FROM ERDA TO PNC SHALL BE NEGOTIATED ON A PRO RATA BASIS. UNQUOTE.

4. EDITORIAL

A. PNC SUGGESTS INCLUSION OF REFERENCE TO QUOTE THE PROGRAM UNQUOTE AFTER END LINE 15 PAGE 1 AND USE OF LORDS QUOTE

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SP-02 /076 W
-----150821Z 044766 /21

P R 150730Z FEB 77
FM AMEMBASSY TOKYO
TO ERDA GERMANTOWN PRIORITY
ERDA WASHDC PRIORITY
INFO SECSTATE WASHDC 5459

UNCLAS SECTION 2 OF 2 TOKYO 2112

THE PROGRAM UNQUOTE THROUGHOUT DOCUMENT, I.D. PAGE 1, LINE 18
IN PLACE OF QUOTE COOPERATIN UNQUOTE, PAGE 4 LINES
10, 15 AND 18 IN PLACE OF QUOTE THIS MEMORANDUM OF
UNDERSTANDING UNQUOTE, PAGE 11 LINES 1, 10, 12 AND
17 IN PLACE OF QUOTE THE JOINT PHYSICS LARGE CORE CRITICAL
EXPERIMENT PROGRAM UNQUOTE, PAGE 12 LINES 3 AND 4 IN
PLACE OF QUOTE AGREED JOINT PROJECTS UNQUOTE. SPECI-
FICALLY, PNC SUGGESTS FOLLOWING PARANTHETICAL STATEMENT
AFTER FIRST USE OF OFFICIAL TITLE, JOINT PHYSICS LARGE CORE
CRITICAL EXPERIMENT PROGRAM ON PAGE 1; QUOTE PARENS HEREIN-
AFTER REFERRED TO AS QUOTE THE PROGRAM UNQUOTE CLOSE PARENS
AND DESIRE TO PROVIDE FOR THE BASIC TERMS AND CONDITIONS
FOR THE IMPLEMENTATION OF THE PROGRAM BY MEANS OF THIS
MEMORANDUM OF UNDERSTANDING UNQUOTE.

B. PNC SUGGESTS ADDITION WORDS QUOTE PARTICIPATION IN THE
UNQUOTE IN PAGE 2 AFTER A 2. AND A 3. PRECEDING QUOTE
CONDUCT UNQUOTE AND QUOTE CONCURRENT UNQUOTE RESPECTIVELY.

C. PNC SUGGESTS FIRST SENTENCE ARTICLE 2, SECTION 1 PAGE 4
READ QUOTE THE PARTIES SHALL EXCHANGE, AS AGREED AND ON
A MUTUALLY BENEFICIAL BASIS, SCIENTIFIC AND TECHNICAL
INFORMATION DOCUMENTS AND RESULTS OF RESEARCH AND
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DEVELOPMENT CARRIED OUT OR ASSOCIATED WITH PHASES I AND
II OF THE PROGRAM. UNQUOTE.

D. ARTICLE 5, SECTION 1 A SHOULD READ QUOTE OR ITS CONTRACTORS
UNQUOTE RATHER THAN QUOTE OF ITS CONTRACTORS UNQUOTE.

E. PNC SUGGESTS ADDITION PHRASE QUOTE WITH THE RIGHT TO
GRANT SUBLICENSES UNQUOTE IN SECOND SENTENCE ARTICLE
5 SECTION 1 C, PAGE 9 AFTER QUOTE ROYALTY-FREE LICENSE
UNQUOTE.

F. PNC REQUESTS ADDITION OF SECTION 7 TO ARTICLE 7, PAGE 12
WHICH WOULD READ QUOTE WITH REGARD TO THE TERMS AND CONDI-
TIONS OF THE ASSIGNMENT OF PNC REACTOR ANALYSTS TO
ARGONNE NATIONAL LABORATORY, UNDER THE ARTICLE 1, I-A, A
SEPARATE AGREEMENT SHALL BE CONCLUDED BETWEEN THE
PARTIES. UNQUOTE.

G. PNC SUGGESTS ARTICLE 8 SECTION 5, PAGE 15, DEFINITIONS,
BE PLACED AT HEAD OF ARTICLE 8 AS SECTION 1 AND OTHER
SECTIONS BE RENUMBERED.

FINALLY, IN ADDITION TO REQUESTED CHANGES, PNC REQUESTS LIST OF
TYPES OF REPORTS, DATA AND INFORMATION THEY CAN EXPECT ACCESS
TO UNDER MOU, E.G., MONTHLY PROGRESS REPORTS, PRELIMINARY
ANALYSIS REPORTS, PERTINENT ANL REPORTS, AND MECHANISM OF
DISTRIBUTION TO PNC TOKYO. ERDA REP SUGGESTED MECHANICS OF
REPRODUCTION AND DISTRIBUTION TO PNC REPS AT ANL AND IN TOKYO
BE WORKED OUT BY LETTER AGREEMENT AFTER PROGRAM INITIATED.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AGREEMENTS, NUCLEAR RESEARCH
Control Number: n/a
Copy: SINGLE
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Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
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Disposition Event:
Disposition History: n/a
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Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
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Office: ACTION OES
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
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Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3312745
Secure: OPEN
Status: NATIVE
Subject: ERDA/PNC MOU ON JOINT PHYSICS LARGE CORE CRITICAL EXPERIMENTAL PROGRAM
TAGS: TECH, JA
To: ERDA
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/c8234bc6-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009